

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mark & Ellen Johnson,
Appellants,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0394
Parcel No. 12-26-252-013

On December 17, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Mark and Ellen Johnson were self-represented and participated by phone. County Attorney Wayne M. Reisetter is counsel for the Board of Review. County Assessor Steve Helm appeared on its behalf at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Mark and Ellen Johnson are the owners of residentially classified property located at 3115 162nd Street, Urbandale, Iowa. The Johnsons' property is a two-story home built in 2012 with 3501 square feet of above grade finish. There is also a full, walkout basement with 1974 square feet of living-quarter finish, a deck, a patio, two porches, and a four-car attached garage. The site is 0.95 acres.

The January 1, 2013, assessed value was \$854,300. Based on the PAAB petition, the total value was allocated as \$195,000 in land value and \$659,300 in improvement value. The Johnsons protested to the Board of Review claiming the property was inequitably assessed and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1) & (4). They asserted there were

errors in the listing including that the property did not have geothermal heating and the improvement's measurement was incorrect. The Board of Review reduced the assessed value to \$846,200, allocated as \$195,000 in land value and \$651,200 in improvement value. We do not know whether the Board's reduction was a result of corrections of the asserted errors or for some other reason.

The Johnsons then appealed to this Board reasserting their claims and contending the property's correct value is \$780,000, allocated as \$180,000 in land value and \$600,000 in improvement value.

The Johnsons submitted two properties located at 3109 162nd Street and 3203 162nd Street as equity comparables. They assert these properties are both larger than their property with similar, or better, interior finish yet the assessed dwelling values are lower. Mark Johnson testified at hearing regarding the comparable properties. He stated 3109 162nd Street is located immediately next door to his home. He referred to the parcel notes on Exhibit 1 as support for his belief that this property is superior to his property. The parcel notes indicate this property has features including a theater room with built-in cabinets, a 100-gallon fish tank built in behind the bar, and a rec room with built-ins. He asserts these are superior interior finishes but his dwelling assessment is still higher on a per-square-foot basis.

Johnson also points out the property located at 3203 162nd Street has no real difference in interior finishing, yet the assessed dwelling value per-square-foot of this property is significantly different than his. The following chart summarizes Johnson's evidence.

Address	Assessed Value of Dwelling (AVD)	Total Living Area (TLA)	Basement Finish	Total Finished Area (TFA)	AVD/TFA
Subject	\$651,200	3397	1973	5370	121.27
3109 162nd St	\$600,210	3644	1920	5564	107.87
3203 162nd St	\$623,830	4042	2050	6092	102.40

In Johnson's opinion, applying the per-square-foot assessed value of the dwellings from the two equity comparables to his property would result in a dwelling value of roughly \$550,000 to

\$579,000 for his property. The total living area (TLA) of the Johnsons' property, as well as the total finished area (TFA), compared to the equity comparables is smaller. Typically, smaller properties have a higher per-square-foot cost compared to larger properties where the cost per-square-foot diminishes. Likewise, simply comparing the assessed value per-square-foot is insufficient evidence for an equity claim. Rather, an equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the assessment/sales ratio. Only one of the Johnsons' comparables recently sold: 3203 162nd Street sold in October 2012 for \$790,000. It has a 2013 assessed value of \$788,830, resulting in a 1.00 sale ratio (rounded). A ratio greater than 1.00 indicates over-assessment; whereas, a ratio less than 1.00 indicates the property may be under-assessed. An assessment/sales ratio of 1.00 indicates the assessed value and sales prices are in line. The subject property also sold in October 2012 for \$862,200, and its 2013 assessment, as adjusted by the Board of Review, was \$846,200, which indicates a ratio of 0.98.

Although the Johnsons have insufficient evidence for an equity analysis, we note it is curious that the subject property is smaller than the two comparables yet its *total* allocated assessed valued for the improvements is higher. Despite this, there is not sufficient evidence to draw any conclusions from it because we do not have enough information about the properties.

County Assessor Steve Helm indicated that after corrections to the listing of the property, including size of the TLA and basement finish, the corrected total assessment should be \$840,590, allocated as \$195,000 in land value and \$645,590 in improvement value. (Exhibit A). Because this differs from the Board of Review decision, it appears Helm recalculated the listing errors after the Board's decision and presented them to this Board. Correcting the noted errors, we agree with Helm's conclusion that the January 1, 2013, value should be \$840,590.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires

assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

An equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the sales-ratio. Only one property the Johnsons submitted for equity comparison has recently sold. However, an equity analysis under *Maxwell* requires more than one comparable property as well as evidence of the subject property's actual value. The Iowa Supreme Court has interpreted "representative number of comparable properties" to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This "statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board." *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word "shall" as used in the statute makes the listing of comparable properties mandatory as failing to do so would "directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment." *Id.*

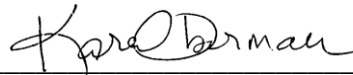
Further, the Johnsons did not make any assertions that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. Thus, the Johnsons evidence did not prove inequity under either legal test of *Maxwell* or *Eagle Foods*.

The plain language of section 441.37(1)(a)(4), allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(4). The Johnsons alleged errors in the listing of their property to the Board of Review. At hearing, it appeared the Johnsons believed the errors had been corrected based on Exhibit A. It appears the changes in Exhibit A, however, were not adopted by the Board of Review, but only presented to this Board. Helm acknowledged corrections had been made to the size of the above-grade living area and basement finish, which result in a different valuation for the property. Because of these corrections, Helm opines the correct value of the subject property is

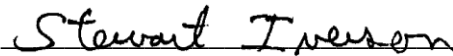
\$840,950. We agree and find Exhibit A establishes there were errors in the assessment and corrects those errors.

THE APPEAL BOARD ORDERS the assessment of Mark and Ellen Johnson's property located at 3115 162nd Street, Urbandale, Iowa, is modified to a total value of \$840,590, allocated as \$195,000 in land value and \$645,590 in improvement value as of January 1, 2013. The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Dallas County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

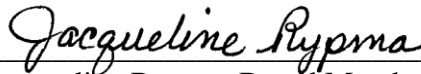
Dated this 14th day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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